



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2304001
Applicant Name: Paul Aiello
Address of Proposal: 3316 39th Avenue West

SUMMARY OF PROPOSED ACTION

Master Use Permit for future construction of a 320 sq. ft. basement addition, 108 sq. ft. main floor addition, and 1,138 sq. ft. second story addition to an existing single family residence.

The following approvals are required:

Variance – to allow a portion of the principal structure to extend into required rear yard (SMC 23.44.014.b).

Variance – to allow expansion of a non conforming structure (SMC 23.42.106).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition
 or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The 3,416 square foot site is located in a Single Family 5000 (SF-5000) zone on 39th Avenue West in the Magnolia neighborhood of Seattle. The existing lot is rectangular in shape measuring 122' in width and 28' in depth and is located at the northernmost corner of this dead

end street. The property is 3,416 square feet in size and contains a one-story single-family residence with a daylight basement garage. The existing house was built in 1964, prior to the adoption of the City of Seattle's present zoning laws regulating rear yard setback. The house is setback 42'-10" from the west property line, 25'-10" from the east property line and 3'-4" from the north and south property lines respectively. There is a 5' elevation drop from the main access to the house to the garage entrance. The southern border of the lot has 19'-10" of frontage along 39th Avenue West. The remaining south, north, east and west property lines are abutting private properties with single family residences. There is no alley. Parking is currently provided in the basement garage whose front entrance faces west. The parking is accessed from 39th Avenue West via an existing 12' wide curb cut.

The residences in the neighborhood are predominantly one to two-story homes. The surrounding zoning is primarily Single Family 5000 (SF 5000) with predominantly single family residential developments in the vicinity.

Proposal Description

The applicant is seeking a variance for future construction of a second story addition over the existing building foot print and a two-story garage/sunroom/deck/roof deck addition to the building's front façade in the rear yard.

The entire north façade of the house is existing and nonconforming to current rear yard requirements, i.e. ten feet (10'-0") per SMC 23.44.014 B. The applicant requests that the proposed mentioned additions over existing building footprint be allowed to expand within that 10' rear yard, but no closer than 3'-4" to the north property line which is the existing building's footprint rear setback distance. That portion of proposed additional upper story floor area in the required rear yard area would be a gain of 356 square feet of additional living space, 51 square feet of outside recreational area and is proposed to match the existing building footprint. As shown per plan, the existing home extends into the required rear yard and is nonconforming with regards to development standards, and the proposal would increase that nonconformity. The applicant also requests to maintain the same 3'-4" rear yard setback for the two-story addition to the west façade of the existing structure that will add 100 square feet of additional building footprint into the required rear yard area. This aspect of the entire proposal includes a gain 147 square feet of living area and 100 square feet of outside recreational area.

Public Comment

Public notice of the proposed project ended on July 30th 2003. During this period four comment letters were received. The neighbors raised a number of concerns about the proposal. In general they felt the lot size prohibits expansion in the manner that is being request. Most of the letters expressed disapproval of the project's scale, the loss of air flow to neighboring properties, the lack of privacy, devaluation of neighboring properties and the failure to stay within the architectural character of the neighborhood.

ANALYSIS - VARIANCES

As provided in SMC 23.40.020, variances from the provisions or requirements set forth in the Seattle Municipal Land Use code shall be authorized only when all of the following facts and conditions are found to exist:

1. *Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;*

The manner in which the original plat was configured does not match the current platting patterns in the neighborhood and the existing orientation of the house dictates an odd determination of required yards and setbacks. Based on the orientation of the existing structure in relation to the existing property lines, the logical approach would be to orientate the required yards that are most conventional to the neighboring yard patterns. Thus, the required front yard setback would be measured from the west property line, the rear yard setback would be measured from the east property line and the side setbacks would be measured from the north and south property lines respectively. In this instance the proposed design would meet Land Use Code development standards.

Unfortunately, strict interpretation of the land use code dictates that the front lot line would be that portion of the south lot line perpendicular to 39th Avenue West (19'-10"). This, in turn, requires the front yard setback to be measured from the south property line and creates a 10' rear yard setback from the north property line.

The owner of the lot is seeking to expand a legal nonconforming single family residence. The current location of the house is setback 3'-4" from the rear property line instead of 10' rear yard setback as required by the Land Use Code and the 20' front yard setback measured from the south property line overlaps the required 10' rear yard area by 2' due to the 28' depth of the site. The unusual lot orientation and its dimensions result in an unusual principal buildable footprint area. The lot size and lot configuration of the subject property is a preexisting condition not created by the owner.

Due to the lot's size, street end configuration and unusual required yard configuration, a Land Use Code complying design would dictate a 13' wide addition. Given these site constraints, the request for a variance from the ten foot rear yard setback is sensible. A grant of the variance would allow the applicant to build a 21'-4" wide addition. Most abutting properties in the area enjoy the privileges of larger lot sizes, increased street frontage and standard required yard configurations. Because of the unusual conditions applicable to the subject property, including shape and location of the existing house, which are not created by the applicant, the strict application of the Land Use Code would deprive the property of the rights and privileges enjoyed by other property owners in the same zone or vicinity.

2. *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;*

Granting a variance to allow the construction of a second story above the existing footprint in the rear yard would be consistent with the limitations upon properties. The subject site has a rear yard of 3'-4" which abuts the rear yard of the homes directly north of the site. The homes to the north front on West Bertona Street and are setback more than 30' from subject sites north property line. To allow the upward expansion of a structure along the existing façade line which is 3'-4" from the north property line would increase the height, bulk, scale and shadowing impacts. In comparison, a Land Use Code compliant design would create these similar issues. Varying the amount of the setback by a few feet would not necessarily dramatically change the wall impacts that the architect proposes. The added 6'-8", however, would provide the resident with a reasonable amount of habitable space. Thus, the second-story expansion would not significantly impact the neighboring properties and thus would not be a grant of special privilege or go beyond the minimum necessary to afford relief.

The applicant is also requesting a variance to allow the construction of new footprint to the west front façade of the existing house. This area would include a partial below grade basement garage addition with unenclosed decks and sunroom addition above. The architect's design encourages a more functional enclosed onsite parking condition than exists now. Also, the design takes advantage of area that currently is dedicated for driveway access to the onsite parking to create more recreational area onsite. Currently the property owner has limited backyard area in comparison to other surrounding properties. Also, the street end property orientation dictates a required front yard setback area measured from the south property line limited to that portion of 19'-10" of street frontage. Currently the existing house is setback 42'-10" from the west property line. A Land Use Code compliant design would allow the architect to propose an addition as close as 19'-10" from the subject site's west property line but only 14'-8" in width compared with the existing 21'-4" width of the front façade of the house. The proposed addition would be setback 27'-10" from the west property line and 21'-4" in width to create a more functional two-car garage. Other neighboring properties either have two-car garages or the opportunity to create additional parking on their property. As proposed, the design would not significantly alter the existing streetscape thus would not be a grant of special privilege or go beyond the minimum necessary to afford relief.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.*

The new additions will be minimal and not out of character with the rest of the neighborhood. The location of the house abuts the rear yards of two residential lots and is separated by a combination of a 6' chain link fence and landscaping consisting of trees and shrubbery. The encroachment of 3'-4" into the required 10' rear yard does not present any material detriment to the abutting properties. Therefore, granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

Literal interpretation of the Land Use Code would allow the applicant to construct an addition to the existing structure that conforms to the required front yard of 20' and required rear yard of 10' and with a maximum width of 14'-8". A second story addition over those areas that are sited in the required rear yard would not be allowed without variance relief. Strict application of the requirements of the Land Use Code would result in a significant reduction in the design, flexibility, size, and massing of the structure in addition to creating structural design challenges. Therefore literal interpretation of the requirements of the Land Use Code would result in undue hardship to the applicant.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The owners of the subject lot are seeking two variances that, if granted would allow the expansion of a legal nonconforming single family home. The applicant proposes to add a second story addition over the existing building footprint and a two-story garage/sunroom/deck/roof deck addition to the buildings front façade-all located in the rear yard. Currently the existing structure has a rear yard of 3'-4" when the required rear yard is 10'. Allowing the expansion of the existing structure along the present façade line preserves the current character of the streetscape while encouraging reuse of a single family building and thus is consistent with the spirit of the Land Use Code.

DECISION-VARIANCE (based upon approved plans in the file)

The proposed variance to allow a portion of the principal structure to extend into required rear yard is **GRANTED**.

The proposed variance to allow the expansion of a non conforming structure is **GRANTED**.

CONDITIONS –VARIANCE

None.

Signature: (signature on file) Date: December 29, 2003
Tamara Garrett, Land Use Planner
Department of Planning and Development
Land Use Services